STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED June 22, 2001
v	No. 219154 Genesee Circuit Court
JOHN LOUCAS YIANNATJI, Defendant-Appellant.	LC No. 98-003297-FH

Before: Bandstra, C.J., and White and Collins, JJ.

PER CURIAM.

Defendant was convicted following a jury trial of failure to stop at the scene of a serious personal injury accident, MCL 257.617. He was sentenced to two years' probation. He appeals as of right, and we affirm.

Charles Craft, III, and his fiancee, Tamika Parks, were driving in Craft's Corvette on May 25, 1998, when the Corvette ran out of gas near the intersection of Dort Highway and Lapeer Road in Flint around 9:00 p.m. Craft got out of the car and pushed it through the intersection after the traffic light for his direction turned green. As Craft was pushing his car through the intersection, he was hit by defendant's car and suffered serious injuries to his head, legs, neck, back, collarbone and tailbone. Parks was not injured in the accident. After defendant struck Craft, he continued to drive his car for a short distance before turning around in a driveway, and returning to the scene of the accident.

When defendant returned to the scene of the accident, there were three witnesses present; Earl McDonald, his wife Jenayan McDonald, and Parks. Defendant immediately asked if anyone had seen what he did. Mrs. McDonald told defendant that he had struck the victim. Defendant asked Craft if he was all right. Defendant then asked if anyone had called for an ambulance. Mr. McDonald told defendant that he had already called for one. Defendant was assured that an ambulance was on the way. A couple of minutes later, defendant walked back to his car, and drove off. Defendant did not provide his name, address or driver's license number to Craft or anyone else at the scene and did not speak to Parks. Defendant testified that he felt he could leave because an ambulance was on the way, and that there was nothing more he could do for the victim.

Defendant argues that the evidence was insufficient to convict him of violating MCL 257.617, because it was undisputed that he stopped at the accident scene and others present at the scene had already called for an ambulance. Defendant asserts that the failure to provide the requisite information is not a separate basis supporting a violation of the statute. We disagree.

An appellate court's review of the sufficiency of the evidence to sustain a conviction may not turn on whether there is any evidence to support the conviction, but whether there was sufficient evidence to justify a rational trier of fact in finding the defendant guilty beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 513-514; 489 NW2d 748 (1992), amended on other grounds 441 Mich 1201 (1992). The evidence must be reviewed in a light most favorable to the prosecution. *Id*. at 515.

MCL 257.617 provides:

> (1) The driver of a vehicle who knows or who has reason to believe that he or she has been involved in an accident upon either public or private property, when the property is open to travel by the public, resulting in serious or aggravated injury to or death of a person shall immediately stop his or her vehicle at the scene of the accident and shall remain there until the requirements of section 619 are fulfilled. The stop shall be made without obstructing traffic more than is necessary.

MCL 257.619 provides:

> The driver of any vehicle who knows or who has reason to believe that he has been involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address, and the registration number of the vehicle he is driving, also the name and address of the owner, and exhibit his operator's or chauffeur's license to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such accident reasonable assistance in securing medical aid or transportation of injured person or persons.

Defendant asserts that in order to violate the statute, the driver who knows or has reason to believe that he had been involved in an accident involving aggravated injury or death must *both* fail to stop *and* fail to comply with the requirements with § 619. We disagree. The statute very clearly requires that the driver stop *and* comply with requirements of § 619. It is not enough to simply stop. Guilt may be established by showing any one of three failures, viz., a failure to stop, a failure to render reasonable assistance in securing medical aid, or a failure to provide the requisite information to the person struck.

Defendant also asserts that he complied with the requirements of § 619 because he stopped at the accident scene to check on the victim's condition and left only after he was told that an ambulance had been called. Although defendant admits that he did not provide the victim with his personal information, he claims he was unable to do so because the victim was not in a condition to receive that information.

There was evidence that Craft, following the accident, was conscious for brief periods, and even communicated with those at the scene, asking what had happened. This evidence, viewed most favorably to the prosecution, was sufficient to enable the jury to find that defendant, could, indeed, have complied with the statute requiring that he provide information to Craft. Accordingly, there was sufficient evidence to allow the jury to find defendant guilty beyond a reasonable doubt based on a failure to provide the requisite information.

Next, defendant argues that the trial court erred when it refused to give an instruction based on § 619 as a lesser included offense of § 617. We disagree. It is apparent that § 619, while setting forth the requirements that must be satisfied for purposes of §§ 617, 617a, and 618, does not, by itself, constitute a separate offense. *People v Malach*, 202 Mich App 266, 276; 507 NW2d 834 (1993). The trial court properly refused to instruct the jury with regard to § 619.[1]

Defendant also argues that the trial court erred when it allowed the prosecutor to repeatedly ask the McDonalds whether defendant gave his name or rendered assistance at the accident scene. Defendant claims that the prosecutor's questions misstated the law and improperly implied that defendant had a duty to provide personal information to not only the person struck, but anyone present at the scene. Again, we disagree.

Evidence is relevant if it tends to make the existence of a fact at issue more probable or less probable than it would be without the evidence. MRE 401. Here, the McDonalds' observations were relevant to establishing that defendant failed to comply or attempt to comply with the requirements of § 619 at all. Further, any error in the admission of this testimony would be harmless as the statutory requirement to provide information to the person struck was made clear. Also, contrary to what defendant argues, the admission of this evidence did not shift the burden of proof to defendant where there was no suggestion, from the prosecutor or the court, that defendant was legally obligated to furnish information to witnesses at the scene.

Finally, defendant argues that the trial court imposed an unlawful condition on his probation when it amended the original order of probation to require that he work at least thirty hours a week in an area outside the practice of law. Because defendant has completed his probationary period, this issue is now moot. *People v Cannon*, 206 Mich App 653, 654; 522 NW2d 716 (1994); *People v Greenberg*, 176 Mich App 296, 302; 439 NW2d 336 (1989).

Affirmed.

/s/ Richard A. Bandstra
/s/ Helene N. White
/s/ Jeffrey G. Collins

---

[1] We note that, even if § 619 could be construed as setting forth a separate offense, any error in failing to instruct on that offense was harmless because the jury was instructed on another intermediate offense, § 617a, and rejected that offense in favor of the highest available offense, § 617. *People v Beach*, 429 Mich 450, 490-494; 418 NW2d 861 (1988).